

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte WERNER POMPETZKI,
JOACHIM SCHULER, and
DIETRICH MASCHMEYER

Application No. 09/618,044

MAILED

MAR 11 2003

**PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES**

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on February 24, 2003. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

A paper entitled "Declaration Under 37 C.F.R. § 1.132" (Paper No. 13) was received on June 4, 2003. There is no indication that the examiner has considered this paper.

Additionally, a Reply Brief (Paper No. 17) and a Request for Oral Hearing (Paper No. 18) were received on December 3, 2002. The examiner responded in a communication (Paper No. 19) on January 13, 2003, by stating "The Request for Oral

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Hearing, filed 12/9/02, is hereby acknowledged." There is no indication that the examiner has considered the Reply Brief (Paper No. 17). Consideration and notification to appellants is required by MPEP § 1208.03. Appropriate correction is required. In addition, entry on the Contents portion of the administration file lists Paper No. 19 as "Letter Reply Brief Noted," not "Letter acknowledging Oral Hearing." Correction is needed.

Lastly, Amendment D (Paper No. 15) was received June 20, 2002. There is no indication that the amendment has been considered. If the amendment is not entered, appellants will need to submit a new appendix of claims, since the current appendix reflects the changes made by the amendment filed June 20, 2002.

Accordingly, it is

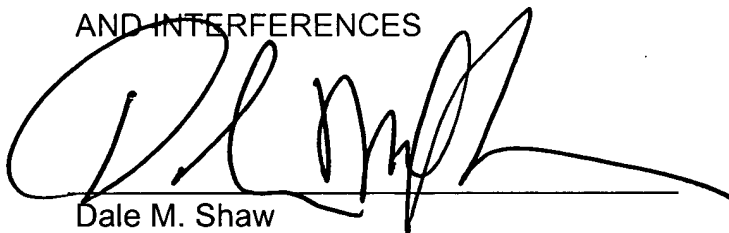
ORDERED that the application is returned to the Examiner for

- consideration of the Declaration (Paper No. 13);
- consideration of the Reply Brief (Paper No. 17);
- correction of the notation of Paper No. 19 on the Contents portion of the administrative file;
- consideration of Amendment D (Paper No. 15);
- written notification of said consideration;
- if the amendment is not entered, notification to appellants that the appendix of claims is defective; and
- for such further action as may be appropriate.

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It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

A handwritten signature in black ink, appearing to read 'D. M. Shaw', is written over a horizontal line.

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